IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 17897 of 2004

Between:

K. Ramalingeswara Rao S/o Late K. Venkata Rao, Working as Assistant Quarry Foreman in Traffic Department, Visakhapatnam Port Trust, Visakhapatnam

... PETITIONER

AND

1 The Visakhapatnam Port Trust rep by Chariman, Visakhapatnam
2 The Financial Advisor and Chief Accounts Officer, Visakhapatnam Port

Trust, Visakhapatnam
3 Sri Govinda Krishna, Cost Analyst, O/o The FA & CAO, AOB,

Visakhapatnam Port Trust, Visakhapatnam

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or Direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents 1 and 2 in applying the amended recruitment rules issued vide resolution No. 96/2003-2004 to the post of Cost Analyst Class-III in Accounts Department which were fell vacant prior to the amendment as arbitrary, illegal and contrary to rules and consequently direct the 1st and 2nd respondents to fill up those posts of cost Analyst in accordance with old rules duly considering the candidates working in other departments of Visakhapatnam Port Trust and also by direct recruitment, by setting a side the selection and appointment made in favour of the 3rd respondent

Counsel for the Petitioner: MR.M.KESAVA RAO

Counsel for the Respondents 1 to 3: MR.A.KRISHNAM RAJU SC FOR VSP PORT TRUST

The Court made the following order:

ORDER:

The petitioner is working as an Assistant Quarry Foreman in Traffic Department of the first respondent-Port Trust. He claims that he acquired all the qualifications for promotion to the post of Cost Analyst. Two posts of Cost Analyst had fallen vacant on 29.03.2002 and 27.06.2003. The second respondent in order to accommodate third respondent got the recruitment rules amended through the Board Resolution No.96/2003-2004. After amendment of the rules, the second respondent issued a circular dated 10.02.2004 directing the candidates who are working in Accounts Department only to submit their applications on or before 20.02.2004 to fill up the two posts by promotion. On coming to know about the said circular the petitioner submitted a representation on 05.02.2004 through proper channel to consider his case also for one of the vacancies. But without considering the petitioner's representation the second respondent conducted interview on 06.04.2004 to the third respondent alone and gave him promotion.

The second respondent has no right to apply the amended rules to select his candidate. The petitioner, therefore, approached this Court seeking to declare the action of the respondents 1 and 2 in applying amended recruitment rules vide Resolution No.96/2003-2004 to the post of Cost Analyst Class III in Accounts

Department as arbitrary, illegal and contrary to the rules and consequently to fill up the two posts in accordance with old rules.

The petitioner did not question the virus of the amendment but his only contention is that the amended rules cannot be applied in making promotions to the posts of Cost Analyst Class III, which fell vacant before the date of amendment.

The petitioner contends that he made a representation to the first respondent on 05.02.2004 through proper channel. The grievance of the petitioner is that the first respondent did not consider the representation while giving promotion to the third respondent.

Since the petitioner contends that the amended rules are not applicable to the posts, which fell vacant prior to the date of the amendment, the first respondent is directed to examine the matter in the light of the contentions raised by the petitioner in his representation dated 05.02.2004 regarding his request for promotion and pass appropriate orders according to the existing rules within two months from the date of receipt of this order.

The writ petition is accordingly disposed of. No order as to costs.

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Dr. G. YETHIRAJULU, J

October 5, 2004

Dsk

To

1 The Chairman, Visakhapatnam Port Trust, Visakhapatnam
2 The Financial Advisor and Chief Accounts Officer, Visakhapatnam Port

Trust, Visakhapatnam.

3 Two CD Copies.